



Emergency panel issues final report on 'gerrymandered' Sixth District

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ANNAPOLIS — A week after the U.S. Supreme Court heard arguments in a lawsuit over the controversial map of Maryland's Sixth Congressional District, an emergency commission tasked with drafting a new map released its final report.

The commission, appointed in November in response to a federal court order to draw a new map, concluded after hearings throughout the district that “all eight of Maryland’s present congressional districts fall short of good districting standards and that the process used to create them in 2011 was undemocratic and in dire need of reform,” says the report, issued last week.

The panel proposed a new map last month that was presented at public hearings in the district, including a hearing conducted March 20 in Hagerstown. During the process, the report says, “very few commenters argued for keeping the current 2011 boundaries, and none, so far as we can recall, ventured to defend the process used to set the present map.

But some, including Washington County Republican Central Committee Chairman Jerry DeWolf, believe the proposed map did not go far enough.

“I echo the conclusion of the emergency commission that it didn’t go far enough and should include more of Carroll County,” said DeWolf, one of the plaintiffs in *Benisek v. Lamone*, the suit before the Supreme Court. “I hope in the future the map mirrors the pre-2011 map and includes all of Carroll County and less of Montgomery County.”

The problem, of course, is that while most of Western Maryland leans Republican, Montgomery County has more registered Democrats. The suit contends that the map was gerrymandered after the 2010 census to assure the Sixth District, held for two decades by Republican Roscoe Bartlett, sent a Democrat to Congress in 2012.

And it did. Former U.S. Rep. John Delaney, a Montgomery County Democrat running for president in 2020, defeated Bartlett in 2012 and won two more terms before opting not to run in 2018.

DeWolf noted that the commission’s proposed map still includes Germantown in Montgomery County, a community he said “is not the same” as the more rural areas of Allegany and Garrett counties.

“I hope they captured the essence of the disappointment” of Western Maryland voters that the map didn’t go further, he said.

Walter Olson, co-chairman of the commission, acknowledged their frustration. “We all recognize this is only a partial fix to what was done to the Sixth District,” he told Herald-Mail Media on Friday.

But the panel had a short timeframe and a narrow mandate — as it is, the proposed change affects two congressional districts — the Sixth and Eighth — and further changes would have affected at least one more.

“Many commenters also expressed a hope that the next redistricting, in which the boundaries of all of Maryland’s congressional districts will be redrawn following the 2020 census, would follow impartial and transparent procedures similar to those that the emergency commission used,” the report said.

Reform recommendations

Olson called the commission’s experience a “test run” of the redistricting reforms the members would like to see. He said the group tried to make recommendations for the next redistricting actions after the next census. Here’s what they suggest:

“The convening of a citizen redistricting panel, whose members are primarily drawn from many walks of life rather than consisting of persons with a long public track record or many connections inside government, requires a combination of clear procedures and adequate time for rigorous scrutiny,” they concluded. Referencing the 2015 report of the Maryland Redistricting Reform Commission that Hogan created shortly after taking office, the panel recommended a multi-stage selection and vetting process for panel members.

And the commission should have plenty of staff support to make sure members are qualified, the report says. Two of the original members of the emergency panel had to resign last month when it was discovered they didn’t actually meet all the qualifications set out in Hogan’s executive order creating the commission.

The next redistricting process should be long enough to “allow for more public outreach on the substance of the work.” In the three months the emergency commission had before the court order’s March deadline, members conducted five hearings that “drew turnout of respectable size.” But members of the public said advance notice was short and didn’t generate enough publicity, the report said.

“The inability to hold hearings across the state was also a factor (among several others) in not pursuing solutions with broader geographic sweep,” it added. “A future reformed process intended to draw a statewide map, especially if it involves both congressional and legislative districts, will call for a considerably longer timeline, more hearings across a wider area and more outreach.

“While we believe we made a strong start, much more visibility and public access is important if we hope to restore the faith of citizens in the process.”

The process should be impartial. “The goal was not to advance any political faction, candidate or party,” the commission concluded. “The parameters laid out in Gov. Hogan’s executive order ... provided an excellent basis for maintaining this impartiality.”

Those parameters included compact district lines that respected the bounds of counties and municipalities. The commission was instructed to disregard information about how citizens were registered or may have voted in the past or where incumbent officials or challengers might live.

“These provisions would make a good starting point for future nonpartisan redistricting for all of Maryland’s eight congressional districts,” the panel concluded.

The public should weigh in on proposed maps. “Not only was a publicly submitted map the one chosen, but having multiple maps to compare was helpful in analyzing the pros and cons of particular map ideas, and will also assist outside observers in checking our work,” the report says.

Transparency and public participation build trust, the panel said. “Public streaming and archiving of both hearings and deliberative workshops and decision sessions worked well,” the commission said, “and should be considered as a standard practice in the future.”

Court concerns

DeWolf said the commission is “on the right track.” But he’s convinced it will take more than recommendations to end gerrymandering in Maryland. “I don’t believe it’s possible to have this settled outside of the courts,” he said, because the Maryland General Assembly still has final say on district maps. And the supermajority of Democrats, he said, will continue to press partisan divisions.

He noted that when the case was argued before the Supreme Court last month, Justice Ruth Bader Ginsburg pointed out that the minority lacks the ability to negotiate with the supermajority.

DeWolf said Democrats in the General Assembly wouldn’t support changes because “it’s not in their best interest.”

For now, everything awaits the court’s ruling, expected in June. The court wouldn’t want to set a “mushy standard,” Olson predicted; otherwise it “could get thousands of cases.”

But while the course the court will pursue is unknown, Olson said the commission “did want to make a full case for reform” in issuing its recommendations.

“What we accomplished was that a federal court could look to our map for a remedy” to the question, he said.